

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sarah Hyde	Team: Team # 8	CCRB Case #: 200708615	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 06/09/2007 3:00 AM	Location of Incident: Fresh Pond Road and 60th Drive	Precinct: 104	18 Mo. SOL 12/9/2008	EO SOL 12/9/2008	
Date/Time CV Reported Tue, 06/12/2007 1:10 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 06/18/2007 3:06 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Jeremiah Winter	09983	939701	104 PCT
2. POM Jeffrey Ziman	02656	939736	104 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Aadil Ishaq	27753	938697	104 PCT
2. POF Lesa Craigg	15941	928123	104 PCT
3. POM Joseph Verderber	09067	939652	104 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Jeffrey Ziman	Abuse: PO Jeffrey Ziman stopped § 87(2)(b)	
B.POM Jeffrey Ziman	Discourtesy: PO Jeffrey Ziman spoke obscenely to § 87(2)(b)	
C.POM Jeffrey Ziman	Abuse: PO Jeffrey Ziman frisked § 87(2)(b)	
D.POM Jeffrey Ziman	Force: PO Jeffrey Ziman used physical force against § 87(2)(b)	
E.POM Jeffrey Ziman	Abuse: PO Jeffrey Ziman searched § 87(2)(b)	
F.POM Jeremiah Winter	Discourtesy: PO Jeremiah Winter spoke obscenely to § 87(2)(b)	

Synopsis

On June 9, 2007, § 87(2)(b) went to The Golden Lounge, which is a bar located at 60-04 Fresh Pond Road in Queens. While at the bar, a fight broke out and § 87(2)(b) ran out of the bar. He ran for several blocks when he was stopped by PO Jeffrey Ziman of the 104th Precinct. PO Ziman told § 87(2)(b) not to move and asked for his license. PO Ziman allegedly grabbed § 87(2)(b)'s arm, twisted it behind his back, pushed § 87(2)(b) against a parked car and handcuffed him (**Allegation A**). § 87(2)(b) told PO Ziman that his aunt works for IAB. PO Ziman allegedly responded "I don't give a fuck about your aunt" (**Allegation B**). PO Ziman frisked § 87(2)(b) (**Allegation C**). During the frisk, PO Ziman allegedly squeezed § 87(2)(b)'s testicle (**Allegation D**). PO Ziman searched § 87(2)(b) (**Allegation E**). Additional officers from the 104th Precinct arrived at the scene with the victim, § 87(2)(b) who was § 87(2)(b). § 87(2)(b) told the officers that § 87(2)(b) had accompanied the man who had thrown a barstool at her. PO Ziman removed § 87(2)(b)'s handcuffs. § 87(2)(b) told PO Ziman that he was going to call IAB and make a complaint against him. PO Jeremiah Winter, also from the 104th Precinct, told § 87(2)(b) "Fuck you, you can call whoever the fuck you want to call" (**Allegation F**). § 87(2)(b) was not arrested and he was not issued a summons.

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Summary of Complaint

§ 87(2)(b) is a § 87(2)(b)-old white male. He is 5'11" and weighs 170 pounds. He has brown hair and blue eyes.

On June 12, 2007, at 1:10 PM, § 87(2)(b) called 911 and was transferred by the operator to IAB. § 87(2)(b) filed a complaint by phone via IAB Log #07-22499 (encl.4a-4c). § 87(2)(b) sought medical treatment at § 87(2)(b) on § 87(2)(b). He told medical personnel that he had been physically assaulted by cops five days prior (encl.4d-4e). The CCRB received his complaint on June 18, 2007 at 3:06 PM (encl.4f-4g). § 87(2)(b) sought follow-up medical treatment at § 87(2)(b) on § 87(2)(b). § 87(2)(b) told medical personnel that he was stopped by cops, "thrown around," and that he felt mildly better (encl.4h). The CCRB spoke to § 87(2)(b) on the phone on June 25, 2007 at 5:37 PM (encl.4i). § 87(2)(b) was interviewed at the CCRB on June 28, 2007(encl.4j-4m). § 87(2)(g)

On June 9, 2007, at approximately 2 AM, § 87(2)(b) had approximately two to three beers at his home. He headed to a bar called The Golden Lounge, which is located at 60-04 Fresh Pond Road. § 87(2)(b) was alone and he was not meeting anyone at the bar. At the Golden Lounge, § 87(2)(b) was trying to get the bartender's attention to order a beer. The bartender was an Asian female. Before he could order a beer, a fight broke out in the bar. During § 87(2)(b)'s phone statement, § 87(2)(b) said that he had asked the bartender for a drink and was looking for his money, when he looked up and saw no one was attending to him. When the fight broke out, bottles were flying and breaking around him. On the Communications CD, § 87(2)(b) stated, "She threw a drink at me," and also that he went to the bar to buy a cranberry juice, not a beer. In § 87(2)(b)'s statement to IAB, he said he had a couple of beers and was "impaired." § 87(2)(b) ran out of the bar. § 87(2)(b) did not know anyone involved in the fight, nor did he know how the fight began.

Once outside, § 87(2)(b) ran a few blocks away from the bar. He stopped near Fresh Pond Road and 59th Drive because he was out of breath. Two uniformed officers in a marked police car pulled up beside

him. During his phone statement, § 87(2)(b) said that he was still running when the officers stopped him. § 87(2)(b) identified one of the officers by name as PO Jeremiah Winter from the 104th Precinct. § 87(2)(b) described him as a short white male with a stocky build, dark hair, and about 180 pounds. The investigation determined that this officer was not PO Winter. The investigation identified him as PO Jeffrey Ziman of the 104th Precinct.

PO Ziman jumped out of the passenger side of the police car and told § 87(2)(b) not to move. PO Ziman asked § 87(2)(b) for his license. § 87(2)(b) handed PO Ziman his license and PO Ziman put it in his pocket. PO Ziman grabbed § 87(2)(b)'s left arm and tried to put it behind § 87(2)(b)'s back. § 87(2)(b) pulled away. PO Winter grabbed § 87(2)(b)'s left arm again, this time succeeding in twisting it behind his back. PO Ziman placed an open hand on the upper right-hand side of § 87(2)(b)'s neck, near his ear, and pushed § 87(2)(b) against a parked car. § 87(2)(b)'s chest was facing the car. § 87(2)(b)'s left knee hit the car. PO Ziman handcuffed § 87(2)(b) (Allegation A). § 87(2)(b) described the initial stop differently during his phone statement. He said that PO Ziman got out of the car, told § 87(2)(b) that he fit a description and asked for his ID. § 87(2)(b) gave PO Ziman the ID and PO Ziman told him to put his hands behind his back. § 87(2)(b) asked why. PO Ziman grabbed § 87(2)(b)'s left arm, but § 87(2)(b) yanked it away. PO Ziman tried to grab his arm again and § 87(2)(b) struggled with him. Also, on the Communications CD, § 87(2)(b) did not describe the physical force in this way. He said he was, "slapped around."

§ 87(2)(b) asked PO Ziman if he was being arrested and PO Ziman told § 87(2)(b) that he fit a description of a male wearing a white shirt and tattoos. § 87(2)(b) was wearing a green short-sleeved collared shirt and blue jeans at the time. § 87(2)(b) told PO Ziman that his aunt § 87(2)(b). On the Communications CD, § 87(2)(b) admitted that it was actually his friend's aunt § 87(2)(b). PO Ziman replied, "I don't give a fuck about your aunt" (Allegation B). PO Ziman walked § 87(2)(b) to the police car. PO Ziman pushed § 87(2)(b) against the police car. § 87(2)(b) banged his knee again. § 87(2)(b) did not allege banging his knee a second time during his phone statement.

PO Ziman requested backup on his radio. PO Ziman frisked § 87(2)(b) with open palms and patted his upper torso, waist, legs, back and arms. (Allegation C). PO Ziman patted § 87(2)(b) near his groin and § 87(2)(b) asked that he be careful because he had an operation as a child and had one testicle removed. PO Ziman disregarded him and squeezed § 87(2)(b)'s testicle (Allegation D). During his official statement, § 87(2)(b) said that when PO Ziman squeezed his testicle, it took his breath away and caused him to drop to his knees. PO Ziman removed § 87(2)(b)'s belongings from his pockets. PO Ziman reached into his left front pants pocket and removed money. He reached into the right front pocket and removed house keys, a cell phone and an asthma inhaler (Allegation E). In § 87(2)(b)'s official statement, PO Ziman also removed a pack of cigarettes. § 87(2)(b) asked for his inhaler, which PO Ziman had placed on the trunk of the police car. PO Ziman pushed the inhaler off the car, causing it to fall onto the pavement and underneath a nearby car. During his phone statement, § 87(2)(b) said that the when PO Ziman removed the inhaler from his pocket, it fell to the ground and PO Ziman kicked it under the car. During his phone statement, § 87(2)(b) did not say he lost his breath and dropped to his knees when PO Ziman grabbed his testicle. He also did not say that he requested the inhaler from PO Ziman. § 87(2)(b) told PO Ziman that he was going to call IAB. PO Ziman said, "I don't give a fuck who you call. I don't give a fuck about IAB."

About ten to twenty minutes later, approximately six more officers and three patrol cars arrived. PO Ziman walked § 87(2)(b) to the corner, near the patrol cars that had arrived. PO Ziman told § 87(2)(b) that the victim was inside one of the patrol cars and that she would identify him.

PO Aadil Ishaq, who was identified through investigation, got out of the patrol car that the victim was inside. PO Ishaq made a motion across his throat, signaling to the other officers that the victim did not identify § 87(2)(b) and that they should release him. PO Ziman removed § 87(2)(b)'s handcuffs. § 87(2)(b) called PO Ziman a "fucking asshole," and told him that they should have listened to him. PO Ziman said "fuck you" and § 87(2)(b) said "fuck you" back. § 87(2)(b) did not allege this in his phone statement. § 87(2)(b) told the officers again that he was going to call IAB to make a complaint and that PO Ziman was "fucking getting arrested."

PO Jeremiah Winter, who was identified through investigation, said to § 87(2)(b) "Fuck you, you can call whoever the fuck you want to call" (Allegation F). In his phone statement, § 87(2)(b) alleged that PO Winter said "Fuck you, call whoever you want to call, you're lucky I don't slap the shit out of you." § 87(2)(b) told PO Winter to mind his business. § 87(2)(b) asked PO Ziman if he was going to give him a disorderly conduct summons because he was cursing at the officers. PO Ziman told § 87(2)(b) that he would write him a summons and PO Verderber told him not to. § 87(2)(b) left and so did the officers.

§ 87(2)(b) did not feel any pain the night of the incident because he had been drinking. A few days after the incident, his knee started to hurt and he couldn't move his shoulder. He had problems urinating for two weeks; he was urinating frequently. § 87(2)(b) went to the hospital on § 87(2)(b) to seek treatment. He returned on § 87(2)(b) for a follow-up visit.

Results of Investigation

Civilian Statements

§ 87(2)(b) Phone Statement

The CCRB spoke to § 87(2)(b) on the phone on September 26, 2007 (encl.5). § 87(2)(b) is § 87(2)(b).

§ 87(2)(b) was at the Golden Lounge on the night of the incident. § 87(2)(b) recalled two males arriving at the bar together. One of the males threw a chair at the bar and broke many items behind the bar, such as 20 bottles of liquor and a TV. The two males ran out of the bar. The police arrived at the bar shortly later.

The police arrived and brought § 87(2)(b) and her daughter, § 87(2)(b) on a canvass to locate the men who had destroyed § 87(2)(b). § 87(2)(b) was working as the bartender that night. The police had located and stopped one of the males who § 87(2)(b) had seen in the bar, although he was not the one who had not thrown the chair. The male who was stopped was identified through investigation as § 87(2)(b). § 87(2)(b) described § 87(2)(b) as a white male, bald, chubby, about 5'8", and approximately 32 years old. The police did not locate the male who had thrown the chair. § 87(2)(b) could not recall anything further.

§ 87(2)(b) Phone Statement

The CCRB spoke to § 87(2)(b) on the phone on September 26, 2007 (encl.5). § 87(2)(b) was § 87(2)(b).

Around 2 AM, two males entered the bar together. One of them, who was identified through investigation as § 87(2)(b) was talking on a cell phone and § 87(2)(b) overheard him say, "he's going to tear the place apart." Suddenly, the other male, who remains unidentified, threw a chair at the bar. § 87(2)(b) had to duck in order to avoid injury. Both § 87(2)(b) and the other male ran out of the bar.

The police arrived and brought § 87(2)(b) and her mother, § 87(2)(b) on a canvass to look for the men. Two officers had stopped § 87(2)(b) the man § 87(2)(b) had overheard talking on his cell phone earlier. § 87(2)(b) described § 87(2)(b) as a white male, bald, chubby, about 5'8", and approximately 32 years old. He also had tattoos. One of the police officers told § 87(2)(b) that his name was § 87(2)(b).

When § 87(2)(b) was brought to where the officers had stopped § 87(2)(b) he was in handcuffs in the street. She saw an officer pat § 87(2)(b) with open palms around his sides and waist. § 87(2)(b) could not recall if the officer reached into § 87(2)(b)'s pockets. § 87(2)(b) told the officers that he was one of the men from the bar, but that he was not the man who had thrown the chair. § 87(2)(b) at no point identified § 87(2)(b) as the male who threw the chair and she was clear to the officers that § 87(2)(b) had

accompanied the man who had thrown the chair. The officers removed the handcuffs and let § 87(2)(b) go. The officers did not locate the male who had thrown the chair.

§ 87(2)(b) could not describe any of the officers. She did not hear any of the officers curse, although she could not hear anything from inside of the patrol car. § 87(2)(b) did not see any of the officers use physical force against § 87(2)(b).

Officer Statements

PO Jeffrey Ziman, Memo Book Entry

PO Ziman had the following memo book entry (encl.6a-6c).

At 2:15 AM, PO Ziman and his partner responded to 60-04 Fresh Pond Road. At 3:11 AM, one male was stopped at 59th Road and 60th Street. The male stopped fit a description and was acting erratic.

PO Jeffrey Ziman, CCRB Statement

PO Ziman of the 104th Precinct was interviewed at the CCRB on January 14, 2008 (encl.6d-6e). *PO Ziman is a § 87(2)(b)-old white male. He is 5'7" and weighs 190 pounds. He has black hair and green eyes.*

On June 9, 2007, PO Ziman worked from 11:15 PM until 7:50 AM. PO Ziman was assigned to patrol in Sector G and was working with PO Verderber. He was dressed in uniform and was assigned to marked RMP 1550.

PO Ziman and PO Verderber responded to 60-04 Fresh Pond Road, which was a bar. The complainant provided the officers with a description of two males. She described one male as white, bald, and wearing a gray suit. The other male was a tall white male wearing a white T-shirt and jeans. She informed the officers that one of the men had thrown a bar stool at her, knocking bottles and a TV over.

The officers left the bar to canvass the area. About three blocks from the bar, the officers stopped a male that fit the description of a tall white male wearing a white t-shirt and jeans. The other male was not with him. The man was identified during the stop as § 87(2)(b). § 87(2)(b) was jogging in the direction away from the bar and he continued to jog even when PO Ziman told him to stop. PO Verderber, who was driving, stopped the police car and the officers got out.

§ 87(2)(b) complained that the officers were stopping him. PO Ziman asked § 87(2)(b) where his friend was but § 87(2)(b) told him that he was not with anyone. PO Ziman walked to the corner and looked around to see if anyone else was in the area. He did not see anyone else. PO Ziman frisked § 87(2)(b) because he saw a bulge in his pocket and wanted to ensure that § 87(2)(b) did not have any weapons on him. By feeling the object from the outside of § 87(2)(b)'s clothing, PO Ziman determined that the bulge was a cell phone.

PO Ziman asked § 87(2)(b) for his ID. § 87(2)(b) repeatedly asked PO Ziman why he had been stopped. § 87(2)(b) was cursing. PO Ziman asked § 87(2)(b) to sit down because § 87(2)(b) appeared drunk. PO Ziman explained to § 87(2)(b) that he and a friend had been at the bar around the corner where there had been an incident. § 87(2)(b) denied being at the bar. § 87(2)(b) continued to yell and scream. § 87(2)(b) was cursing at PO Ziman and yelling about how his aunt was § 87(2)(b). PO Ziman did not respond, "I don't give a fuck about your aunt" and "I don't give a fuck about IAB." PO Ziman responded "I don't care." The CCRB asked whether PO Ziman could have said "I don't fucking care," and he responded "maybe," although didn't recall doing so.

PO Winter and PO Ishaq arrived at the scene. They had brought the victim, § 87(2)(b), to the scene. This individual was identified through the investigation as § 87(2)(b). § 87(2)(b) was seated in their patrol car and she identified § 87(2)(b) as one of the males from the bar. PO Ziman decided that § 87(2)(b) was under arrest at that time.

§ 87(2)(b) was throwing his hands up in the air because he was angry. PO Verderber grabbed § 87(2)(b)'s hands and handcuffed him. PO Ziman walked § 87(2)(b) to the police car. PO Ziman leaned § 87(2)(b) against the police car and searched him. Other than leaning § 87(2)(b) against the car, PO Ziman did not use any other physical force with him. § 87(2)(b) was pushing away from the car and being difficult and non-compliant. During the search, PO Ziman removed § 87(2)(b)'s property and placed it on the patrol car. All of the property was returned to § 87(2)(b). While PO Ziman was searching § 87(2)(b), § 87(2)(b) was saying "don't grab my balls." PO Ziman did not grab § 87(2)(b)'s testicles. § 87(2)(b) did not mention any medical issues other than asthma. PO Ziman did not recall § 87(2)(b) asking for his inhaler.

While PO Ziman searched § 87(2)(b), PO Ishaq spoke with the complainant in further detail. She told him that § 87(2)(b) had been with the male who had thrown the chair, but § 87(2)(b) did not actually throw it himself. PO Ishaq informed PO Ziman of this new information. PO Ziman decided that § 87(2)(b) was no longer going to be arrested and he removed the handcuffs from § 87(2)(b).

PO Ziman didn't remember if he threatened to issue § 87(2)(b) a summons, although § 87(2)(b) could have been issued a disorderly conduct summons due to his behavior.

PO Jeremiah Winter, Memo Book Entry

PO Winter had the following memo book entry (encl.7a-7e).

At 4:35 AM, PO Winter had a delayed memo book entry. One male was stopped at the corner of 59th Drive and Fresh Pond Road. His name was § 87(2)(b) and he was stopped under the suspicion of a crime. § 87(2)(b) fit description and was placed into cuffs for personal protection. PO Winter prepared a UF250.

PO Jeremiah Winter, CCRB Statement

PO Winter of the 104th Precinct was interviewed at the CCRB on December 13, 2007 (encl.7f-7g). *PO Winter is a § 87(2)(b)-old American Indian male. He is 6'0" and weighs 260 pounds.*

On June 9, 2007, PO Winter worked from 11:15 PM until 7:50 AM. He was assigned to Sectors D, E and F and was working with PO Ishaq. He was dressed in uniform and was assigned to marked RMP 2140.

On June 9, 2007, PO Winter and PO Ishaq responded to a dispatch of criminal mischief at a bar called the Golden Lounge. The complainant, § 87(2)(b), described two assailants. Both were white males and one was bald and wearing a suit. The men were making a lot of noise and "destroyed the bar" by throwing chairs and breaking bottles. PO Winter could not recall the rest of the description provided by the complainant.

§ 87(2)(b) was stopped by the officers assigned to Sector G, PO Verderber and PO Ziman. They stopped him near 59th Drive and Fresh Pond Road. PO Winter and PO Ishaq brought § 87(2)(b) there to conduct a "show-up" and identify § 87(2)(b). § 87(2)(b) was identified through investigation as § 87(2)(b). PO Verderber and PO Ziman walked § 87(2)(b) halfway between their police car and PO Winter's police car. PO Winter, who was still seated inside the car, turned off the RMP lights. § 87(2)(b) identified § 87(2)(b) as one of the individuals who had "destroyed" the bar.

PO Winter got out of his vehicle and handcuffed § 87(2)(b). § 87(2)(b) was not standing near a car when he was handcuffed and PO Winter did not push § 87(2)(b) against a car. PO Winter did not use any physical force with § 87(2)(b). None of the officers used physical force with § 87(2)(b). PO Winter did not frisk or search § 87(2)(b). There were no incidents in the handcuffing of § 87(2)(b).

PO Winter walked back to his police car and spoke to § 87(2)(b) further. § 87(2)(b) provided PO Winter with further information: § 87(2)(b) was one of the men she had seen, but he didn't actually do anything

destructive himself. He had simply accompanied the other man, the one who had thrown chairs and caused damage to the bar. PO Winter got out of the car again and informed the other officers. § 87(2)(b)'s handcuffs were removed and the officers told him that he could be on his way. § 87(2)(b) became very angry and disorderly. He was yelling and cursing at the officers. PO Winter did not recall the specifics of what § 87(2)(b) was yelling about. PO Winter said that he might have threatened to give § 87(2)(b) a disorderly conduct summons because of this behavior, although he did not specifically recall doing so. No summons was issued and § 87(2)(b) went on his way.

PO Winter did not say, "Fuck you, you can call whoever the fuck you want to call" to § 87(2)(b). PO Winter did not recall any other officer cursing at § 87(2)(b). PO Winter did not see any of the officers use physical force with § 87(2)(b). PO Winter did not see any other officer search or frisk § 87(2)(b). The officers did not apprehend the other man.

PO Winter completed a UF250 for § 87(2)(b). He did not provide the CCRB with a copy of it.

PO Joseph Verderber, Memo Book Entry

PO Verderber had the following memo book entry (encl.8a-8b).

At 2:17 AM, PO Verderber and his partner responded to a 10-52 at 60-40 Fresh Pond Road. One male was stopped in regards to a bar being destroyed. The male fit description and he was handcuffed for the officers' safety and because he was acting belligerent. The handcuffs were removed after a negative identification by the complainant during show up. A UF250 was prepared.

PO Joseph Verderber, CCRB Interview

PO Verderber of the 104th Precinct was interviewed at the CCRB on March 5, 2008 (encl.8c-8d). *PO Verderber is a § 87(2)(b)-old white male. He is 6'1" and weighs 250 pounds. He has brown hair and brown eyes.*

On June 9, 2007, PO Verderber worked from 11:15 PM until 7:50 AM. He was assigned to patrol in Sector G with PO Ziman. He was dressed in uniform and was assigned to a marked RMP.

On June 9, 2007, around 2:17 AM, PO Verderber and PO Ziman received a radio dispatch and responded to 60-04 Fresh Pond Road. The officers were provided with a brief description of two white males who had destroyed a nearby bar. PO Verderber did not recall the description of the males that was provided. The officers were informed that the males had broken bottles and a TV by throwing stools at the bar.

The officers went to the bar. They walked in briefly, but left shortly later to conduct a canvass for the two males. No other officers had arrived at the bar yet. PO Verderber and PO Ziman briefly spoke to the complainant, who was the bartender at the bar, although PO Verderber did not recall what she said.

While conducting a canvass, the officers saw a white male walking. He appeared to be out of breath. PO Verderber and PO Ziman decided to stop him because of his proximity to the bar and because he fit the description of a white male. The man was later identified during the stop as § 87(2)(b).

PO Verderber, who was driving, stopped the patrol car. PO Verderber did not recall who asked § 87(2)(b) to stop walking. The officers told § 87(2)(b) to stop and asked where he was coming from. § 87(2)(b) was acting belligerent. He was yelling and cursing. § 87(2)(b) was angry that the officers had stopped him. § 87(2)(b) was yelling about how his aunt § 87(2)(b). None of the officers said "I don't give a fuck about your aunt, I don't care about IAB" or cursed at him. PO Verderber did not curse at § 87(2)(b).

PO Ziman frisked § 87(2)(b) to ensure that he didn't have any weapons. PO Ziman did not push § 87(2)(b) against a car to frisk him. PO Ziman did not use any physical force against § 87(2)(b). PO Verderber did not use physical force against § 87(2)(b) at any point during this incident. PO Verderber

did not recall § 87(2)(b) mentioning any medical issues regarding his testicles. PO Ziman did not grab § 87(2)(b)'s testicles. PO Verderber did not recall whether PO Ziman searched § 87(2)(b). PO Verderber did not search § 87(2)(b).

PO Winter and PO Ishaq, who were assigned to another sector patrol, arrived at the scene. A third sector patrol arrived as well, although PO Verderber did not recall who it was. One of these additional sectors brought the victim from the bar with them. The victim was identified through investigation as § 87(2)(b). § 87(2)(b) initially made a positive identification of § 87(2)(b). An officer handcuffed § 87(2)(b) although PO Verderber did not remember who did so. § 87(2)(b) was compliant during the handcuffing. § 87(2)(b) did not provide the officers with any information regarding his involvement with the incident at the bar.

A few minutes later, the complainant called one of the officers over. PO Verderber did not recall which officer. She explained to the officer that § 87(2)(b) wasn't the right man. The ID was therefore negative. One of the officers removed § 87(2)(b)'s handcuffs, although PO Verderber did not recall who did so.

None of the officers threatened to issue § 87(2)(b) a disorderly conduct summons, although § 87(2)(b) was acting disorderly and could have been issued a summons.

§ 87(2)(b) did not complain of injuries or pain at anytime during the incident. The officers did not apprehend the other male during this incident.

PO Aadil Ishaq, CCRB Statement

PO Aadil Ishaq of the 104th Precinct was interviewed on November 21, 2007 (encl.9e-9f). PO Aadil Ishaq is a § 87(2)(b)-old Asian male. He is 6'1" and weighs 220 pounds. He has black hair and brown eyes.

On June 9, 2007, PO Ishaq worked from 12 AM until 8 AM. He was assigned to Sectors D, E and F and was working with PO Winter. He was dressed in uniform and assigned to a marked RMP. He did not have any relevant memo book entries regarding this incident (encl.9a-9d).

On June 9, 2007, around 2:15 AM, PO Ishaq and PO Winter responded to a radio run for a "crime in progress." They responded to a local bar called the Golden Lounge and spoke to § 87(2)(b), who directed the officers' attention to the bar area, which had been damaged with a stool. There was broken glass and bottles. The bartender was identified through investigation as § 87(2)(b). § 87(2)(b) told the officers that two intoxicated men had come into the bar and were very loud. One of them picked up barstools one by one and began to throw them at her. § 87(2)(b) was not injured because she had ducked out of the way. The officers asked for a description of the men. § 87(2)(b) said they were white males in their 30s and were wearing button down shirts and jeans. § 87(2)(b) did not know the men and had not seen them prior to this incident.

§ 87(2)(b) accompanied the officers on a canvass. About five minutes had passed when another sector patrol contacted PO Ishaq and PO Winter. The other sector, PO Ziman and PO Verderber, had stopped a white male nearby. He was identified during the stop as § 87(2)(b). When PO Ishaq and PO Winter arrived, § 87(2)(b) was not handcuffed. § 87(2)(b) told the officers that § 87(2)(b) was one of the men who had destroyed the bar. § 87(2)(b) was placed in handcuffs and searched. PO Ishaq did not recall who handcuffed and searched § 87(2)(b). Physical force was not used to handcuff § 87(2)(b). None of the officers used physical force against § 87(2)(b) at any time during this incident. None of the officers pushed § 87(2)(b) against a car. He was physically compliant.

§ 87(2)(b) was yelling and screaming at the officers. He was angry that he was stopped and handcuffed. § 87(2)(b) was yelling about how he has family members in the police department and how the officers were "dumb rookies."

§ 87(2)(b) provided further information to the officers. She told them that § 87(2)(b) was with the male who had thrown chairs, but he had not actually thrown any chairs himself. The handcuffs were removed and § 87(2)(b) was sent on his way. PO Ishaq did not recall who removed the handcuffs. None of the officers said, "Fuck you" or "I don't give a fuck about your aunt." None of the officers threatened to give § 87(2)(b) a summons for disorderly conduct. § 87(2)(b) had been stopped for about 10 minutes.

One of the officers from Sector G frisked § 87(2)(b) before PO Ishaq and PO Winter arrived and before he was placed into handcuffs, although PO Ishaq was unsure which officer did so. This information was told to PO Ishaq at some point during the incident.

PO Lesa Craigg, CCRB Statement

PO Craigg was interviewed on January 14, 2008 (encl.10d-10e).

On June 9, 2007, around 3AM, PO Craigg worked from 11:15 PM until 7:50 AM. She was assigned to Sector D, E, F. She was working with PO Silverburg. She was dressed in uniform and was assigned to marked RMP 2721. She did not have any relevant memo entries (encl.10a-10c).

PO Craigg did not recall this incident. The CCRB provided PO Craigg with a synopsis of the incident, but it did not help to refresh her memory. Her memo book did not refresh her memory because she had no relevant entries. PO Craigg said that she remembered working with PO Silverburg that evening, but she didn't remember this incident.

Medical Records

§ 87(2)(b) went to the emergency room at § 87(2)(b) on § 87(2)(b). He was evaluated at § 87(2)(b). He complained of being physically assaulted by cops five days ago and of pain in his left knee, left shoulder and groin (testicular pain). § 87(2)(b) had a past medical history of an orchiectomy operation § 87(2)(b). An orchiectomy is the surgical removal of a testicle. The doctor noted negative sexual dysfunction, negative loss of consciousness, negative dysuria (painful urination), negative hematuria (blood in the urine), negative shortness of breath, negative unilateral (one-sided) weakness, and negative incontinence. § 87(2)(b) was alert, ambulatory, and well. The doctor noted that § 87(2)(b) had one testicle and that there was positive scrotal swelling and positive scrotal tenderness. There was positive pain to left scapula (shoulder blade). The left shoulder had free range of movement and had negative deformities, negative swelling, and negative bruising. The emergency discharge instructions to § 87(2)(b) were make follow-up appointments in the orthopedic department and at the clinic if his pain persisted. The final clinical impression was strain in the left scapula and testicular pain. § 87(2)(b) was prescribed 600 mg of Motrin for pain and 10mg of Flexeril to relax the muscles.

§ 87(2)(b) sought follow up treatment at § 87(2)(b) on § 87(2)(b). He complained of shoulder pain and stated that on June 9, 2007, he was stopped by cops and "thrown around." He felt mildly better and was no longer taking pain medicine. His left shoulder was positive for mild tenderness. His shoulder had a free range of movement and good muscle tone. The doctor requested an x-ray of the left shoulder and prescribed Naproxen for two weeks.

During the same visit, the department of radiology took an x-ray of § 87(2)(b)'s left shoulder. There was no evidence of fracture or dislocation. The visualized structures demonstrated no significant abnormality. There was no evidence of soft tissue calcifications. The dept of radiology also took an x-ray of § 87(2)(b)'s cervical spine. The examination found that the vertebrae and disc spaces were within normal limits (encl.11a-11L).

Communications CD

The communications CD indicated § 87(2)(b)'s call to 911 (encl.12a). He stated to the intake officer, "My aunt is § 87(2)(b). I don't want to get her involved. I had a problem with seven

cops." The intake officer asked why his aunt would be involved and § 87(2)(b) replied that he didn't want to get her in trouble and then admitted that she's not actually his aunt, but his friend's mother, whose name was § 87(2)(b). § 87(2)(b) explained to the intake officer that he was walking home on Saturday night, June 9, 2007, around 3AM, when seven police cars and fourteen police officers pulled up. He was dressed in a white and green shirt and blue jeans. All of the officers got out of their cars and "slapped" him around. The officers handcuffed § 87(2)(b) told him that he fit a description and that they were going to bring a witness to the scene.

§ 87(2)(b) stated that he asked the officers to take him to the precinct so that he could call his aunt. The officers said in response, "I don't give a fuck about your aunt" and "Fuck your aunt." § 87(2)(b) stated that PO Winter was an "obnoxious piece of garbage." The "lady from the bar" was brought to the scene and she told the officers that § 87(2)(b) didn't do anything. § 87(2)(b) stated, "This is the second time this has happened. She threw a drink at me and they arrested me."

§ 87(2)(b) was provided with complaint number 07-22499. § 87(2)(b) stated that he had been in the bar to get a cranberry juice, and that he had a couple of drinks earlier in the night. He stated that "All hell broke loose" in the bar and he ran out because he was scared. The officers had stopped him a couple blocks away. He stated that PO Winter patted him down and he squeezed his testicle spitefully, even though § 87(2)(b) asked him to be careful.

§ 87(2)(b) stated that he was not arrested and that he injured his shoulder and bruised his knee.

Police Documents

SPRINT

The SPRINT indicated that on June 9, 2007 at 219 AM, an anonymous female called 911 and stated that there were six males on the corner with bats. The call came from 60-04 60th Drive and Fresh Pond Road, the address of the Golden Lounge. The job was unfounded at 3:32 AM by officers assigned to Sector G from the 104th Precinct (encl.12b).

Roll call

The roll call indicated that PO Ziman, PO Verderber, PO Ishaq, PO Winter, and PO Craig were working during the date and time of this incident (encl.12c-12f).

Handwritten UF-250 Log

There was no UF-250 on record for § 87(2)(b) on June 9, 2007 (encl.12g).

Criminal Conviction History of Civilian

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Substantiated CCRB Allegations which resulted in the Imposition of Discipline

After two years with the NYPD, PO Ziman has no substantiated allegations on his CCRB history (encl.2a). After two years with the NYPD, PO Winter has no substantiated allegations on his CCRB history (encl.2b).

Notice of Claim

There is no notice of claim on file for § 87(2)(b) (encl.15a).

Conclusions and Recommendations

Officer Identification

§ 87(2)(b) identified the officer who stopped him, cursed at him, frisked and searched him, and used physical force against him as PO Winter. Although PO Winter was at the scene, § 87(2)(b) mistakenly identified him as the subject officer. § 87(2)(b) admitted during his initial complaint that he had a few beers and was “impaired.” § 87(2)(b) described PO Winter as a short, young, white male, who had a stocky build, dark hair, and was about 180 pounds. PO Jeremiah Winter, of the 104th Precinct, is a § 87(2)(b) year-old American Indian male. He is 6’0” and weighs 260 pounds. PO Jeffrey Ziman fit the pedigree described by § 87(2)(b). PO Ziman is a § 87(2)(b)-year-old white male, who is 5’7”, weighs 190 pounds and has black hair. PO Ziman also testified to the CCRB that he stopped § 87(2)(b) frisked him, leaned him against a car, and searched him. Even though PO Ziman did not admit to using physical force or discourteous language against § 87(2)(b), § 87(2)(b) alleged that he did so. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b) also alleged that an officer, who fit PO Winter’s pedigree, cursed at him as well. § 87(2)(b) described this officer as a tall, stocky, olive-skinned male with a tattoo arm band. No other officer at the scene fits this description. Therefore, the allegation of discourteous language was pleaded against PO Winter.

Undisputed Facts

It is undisputed that § 87(2)(b) was at the Golden Lounge when a fight broke out and that he was stopped a few blocks away from the bar by PO Ziman from the 104th Precinct. It is undisputed that PO Ziman frisked and searched § 87(2)(b). It is undisputed that the officers determined that § 87(2)(b) had not committed a crime and was free to leave.

Disputed Facts

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Assessment of Evidence

§ 87(2)(g)

§ 87(2)(b) told the CCRB that he was at the Golden Lounge when a fight broke out. § 87(2)(g)

§ 87(2)(b) also stated on the Communications CD, “she threw a drink at me,” § 87(2)(g)

According to § 87(2)(b), § 87(2)(b) arrived at the bar with the man who later threw a chair at her.

In addition to arriving together, the men ran out of the bar together. § 87(2)(b) testified to such. Also, § 87(2)(b) told the CCRB that bottles were flying and breaking “around him” and that when he ran out of the bar, he continued to run for several blocks. § 87(2)(g)

§ 87(2)(b)

Regarding the question of whether physical force was used to initiate the stop, according to § 87(2)(b) PO Ziman told him not to move and asked for his license. § 87(2)(b) testified that he was handcuffed immediately and admitted to pulling away and struggling with PO Ziman to prevent himself from being

handcuffed. PO Ziman grabbed § 87(2)(b)'s left arm twice and § 87(2)(b) kept jerking it away. According to § 87(2)(b)'s medical records, § 87(2)(b) experienced pain in his left shoulder. The medical records did not note a knee injury, although § 87(2)(b) complained that he banged his knee when PO Ziman pushed him against the car.

§ 87(2)(g)

He pulled away and struggled with PO Ziman. Also, PO Ziman said that § 87(2)(b) was pushing away from the car while he was searching him and that he threw his arms in the air while being handcuffed. § 87(2)(g)

In regards to the use of discourteous language, § 87(2)(b) alleged that PO Ziman told him, "I don't give a fuck about your aunt" and "I don't give a fuck about IAB." PO Ziman told the CCRB that he recalled § 87(2)(b) yelling about his aunt § 87(2)(b) and that he was going to make a complaint. PO Ziman said he responded by saying "I don't care." When asked whether it was possible that he said "I don't fucking care," PO Ziman told the CCRB "Maybe" but that he didn't specifically recall saying that. § 87(2)(g)

Additionally noted, § 87(2)(b) admitted to cursing and provoking the officers.

PO Ziman told the CCRB that he received a statement from § 87(2)(b) before he stopped § 87(2)(b). According to PO Ziman, § 87(2)(b) provided descriptions of the men and informed him that one of the men had thrown a bar stool at her, which knocked over bottles and a TV. PO Ziman also testified that § 87(2)(b)'s "positive identification" of § 87(2)(b) was that he was one of the men that she had described to him earlier, but not necessarily the one who had thrown the chair. § 87(2)(g)

Additionally, § 87(2)(b) told the CCRB that she was clear with the officers that § 87(2)(b) was one of the men, but not the perpetrator. § 87(2)(g)

§ 87(2)(b) alleged that PO Ziman squeezed his testicle during the frisk, § 87(2)(g). During his official statement, § 87(2)(b) said that this caused him to drop to his knees and lose his breath, yet in his other statements PO Ziman proceeded to search him after squeezing his testicle. PO Ziman told the CCRB that he recalled § 87(2)(b) telling him, "Don't grab my balls." PO Ziman testified that he did not squeeze § 87(2)(b)'s testicle and that § 87(2)(b) did not mention a past operation which caused sensitivity to that area. § 87(2)(b)'s medical records corroborated § 87(2)(b)'s surgery as a child, which removed a testicle. It also corroborated that he had scrotal swelling and tenderness. Yet § 87(2)(b) also alleged problems urinating since the incident. § 87(2)(b)'s medical records disproved any such issues. § 87(2)(b) has a history of testicular issues and it remains unclear if the swelling and tenderness were related to his allegation that PO Ziman squeezed his testicles. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) alleged in his initial statement that PO Winter said "Fuck you, you can call whoever the fuck you can want to call." In § 87(2)(b)'s phone statement, he alleged that PO Winter said "Fuck you, call whoever you want to call, you're lucky I don't slap the shit out of you." § 87(2)(g)

Allegations Not Pleaded

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation A: PO Jeffrey Ziman stopped § 87(2)(b)

According to Barry Kamins' Search and Seizure, an officer's reasonable suspicion of a crime is often based on information received from a victim (encl.1a). Information from an identified individual provides the police with reasonable suspicion, especially "when the defendant is the only person at the location fitting the description, when the description is insufficiently specific, when the information is corroborated by the officer's observation, or when the suspect is in close spatial and temporal proximity to the crime, or when the defendant is running from the direction of the reported crime" (encl.1b). Flight is an escalating factor when an officer observes a suspect running from the direction of a recently committed crime (encl.1c).

Here, PO Ziman was provided with a description of two men, one of which engaged in criminal mischief because he threw a barstool at the bar and broke another's property. § 87(2)(b) fit the description of one of the men that had been provided, he was running in the opposite direction of the crime that had just been committed, and no one else was around. § 87(2)(g)

As in, People v. Hicks, 68 N.Y.2d 234, 508 N.Y.S.2d 163, the Court of Appeals held that a suspect's nonarrest detention for the purpose of transporting or detaining them for a show-up is within the bounds of a lawful stop (encl.1d).

§ 87(2)(g)

Allegation B: PO Jeffrey Ziman spoke obscenely to § 87(2)(b)

As in *Police Department v. Miller*, OATH Index No. 2127/00 (Aug. 25, 2000), the use of discourteous language as the sole expression of angry retaliation is more likely to provoke anger than to procure cooperation and is in direct violation of Patrol Guide Procedure 104-1 (encl.1e-1f). § 87(2)(g)

Allegation C: PO Jeffrey Ziman frisked § 87(2)(b)

§ 87(2)(g)

In a Level III stop, as described in the NYPD Street Encounters Chart (encl.1g), an officer may frisk the subject for a deadly weapon, or any article or instrument or article readily capable of causing serious physical injury. § 87(2)(g)

Allegation D: PO Jeffrey Ziman used physical force against § 87(2)(b)

§ 87(2)(g)

Allegation E: PO Jeffrey Ziman searched § 87(2)(b)

That PO Ziman searched § 87(2)(b) is not in dispute. In order to search an individual, an officer must have probable cause to arrest that individual. See *Police Department v Grossman*, OATH Index No. 2382/00 (Oct.6, 2000) (encl.1h-1i). Also, as in *Barry Kamins' Search and Seizure*, the right to stop and frisk an individual does not permit an officer to conduct a full-blown search (encl.1j-1k).

§ 87(2)(g)

Allegation F: PO Jeremiah Winter spoke obscenely to § 87(2)(b)

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: